



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

IN THE MATTER OF	)	Docket No. CWA-08-2004-0013
	)	
Mutch Oil Company of Grand Forks, Inc.	)	
908 South 48 <sup>th</sup> Street	)	<b>CONSENT AGREEMENT</b>
Grand Forks, North Dakota	)	
	)	
<u>Respondent.</u>	)	

Complainant, United States Environmental Protection Agency Region 8 (EPA), and Respondent, Mutch Oil Company of Grand Forks, Inc., hereby consent and agree as follows.

1. On, November 18, 2003, Complainant issued to Respondent a Complaint alleging certain violations of the section 311(b)(6)(B)(ii) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990.

2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

3. Respondent, stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives its right to a hearing, any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Consent Agreement.

4. Respondent, by executing this Consent Agreement, hereby certifies to EPA that it is now in compliance with each of the relevant provisions of section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii).

5. Respondent consents to the payment of a civil penalty in the amount of twenty two thousand five hundred dollars (\$22,500.00).

6. Respondent agrees and consents to the following:

a. After Respondent has received the Final Order in this matter, Respondent shall pay a civil penalty of twenty two thousand five hundred dollars (\$22,500.00) in four payments of five thousand six hundred twenty five dollars (\$5,625.00) each in accordance with the following schedule:

1<sup>st</sup> payment of \$5,625.00 is due and must be received by not later than 06/20/04;

2<sup>nd</sup> payment of \$5,625.00 is due and must be received by not later than 12/20/04;

3<sup>rd</sup> payment of \$5,625.00 is due and must be received by not later than 06/20/05;

4<sup>th</sup> payment of \$5,625.00 is due and must be received by not later than 12/20/05;

by sending certified or cashier's checks, **payable to "Oil Spill Liability Trust Fund,"** with the docket number and Respondent's name written on the check, to:

Jane Nakad (8ENF-T)  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

- b. **Copies of the cashier's or certified checks** shall be sent simultaneously to:

Tina Artemis	and	Brenda L. Morris (8ENF-L)
Regional Hearing Clerk (8RC)		U.S. EPA, Region 8
U.S. EPA, Region 8		999 18th Street, Suite 300
999 18th Street, Suite 300		Denver, CO 80202-2466
Denver, Colorado 80202-2466		

7. Respondent further agrees and consents that if Respondent fails to make any of the installment payments on the due date specified Respondent shall:
  - a. Pay interest of six percent (6%) per annum on any amounts specified in subparagraph 6.a., above, which will begin to accrue from the specified due date;
  - b. Pay a handling charge of fifteen dollars (\$15.00) that will be assessed on the 31<sup>st</sup> day and each 30-day period that any amounts specified in subparagraph 6.a., above, are due and unpaid; and
  - c. Pay an additional penalty of six percent (6%) per annum that will be assessed on any amounts due and unpaid if payment is not received within 90 days of the due date.
8. All late payments received by Respondent will be applied first to the charges specified in subparagraphs 7.a.- c., above, and next to any unpaid principal amount.
9. Should Respondent fail to make a timely payment in accordance with the installment schedule referenced above, EPA maintains and reserves sole discretion to require Respondent to pay immediately upon notification to Respondent the full amount of the civil penalty (\$22,500.00) or any portion thereof outstanding plus the handling charge, additional penalty, and interest referenced in subparagraph 7.a - c., above.
10. The penalty specified in Paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

11. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
12. Each undersigned representative of the parties to this Consent Agreement certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
13. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8  
Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date: 5/3/04

By: SIGNED  
Elisabeth Evans  
Director  
Technical Enforcement Program

Date: 4.30.04

By: David J. Janik  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: 5-5-04

By: SIGNED  
Brenda L. Morris, Attorney  
Legal Enforcement Program

**Mutch Oil Company of Grand Forks, Inc., Respondent.**

Date: **4-30-04**

By: **SIGNED**

**Paul Mutch**  
(Print name of signatory)

## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **MUTCH OIL COMPANY OF GRAND FORKS, INC., DOCKET NO.: CWA-08-2004-0013** was filed with the Regional Hearing Clerk on May 6, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on May 6, 2004, to:

Paul T. Mutch  
Mutch Oil Company of Grand Forks, Inc.  
P. O. Box 14373  
Grand Forks, ND 58208-4373

and

Commander  
Finance Center (OGR)  
U.S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

May 6, 2004

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON MAY 6, 2004.**